

LEGISLATIVE COUNCIL

House Majority Caucus Room

Boise, Idaho

November 9, 2006

MINUTES

The meeting was called to order at 9:00 a.m. by Speaker Bruce Newcomb, co-chair. Members of the Legislative Council in attendance were Pro Tem Robert L. Geddes, co-chair; Senators Bart Davis, Patti Anne Lodge, Clint Stennett, Elliot Werk and David Langhorst; and Representatives Lawrence Denney, Frances Field, Gary Collins, Wendy Jaquet, Mary Lou Shepherd and Elaine Smith. Senator Dick Compton was absent and excused.

Also in attendance or participating in the meeting were Senators Joe Stegner and Brad Little; Pamm Juker and Terri Franks-Smith, House staff; Mary Sue Jones, Senate staff; Kent Kunz, Idaho State University; Pam Ahrens, Jan Frew, Rick Thompson and Dennis Stevenson, Department of Administration; Peter Morrill and Jeff Tucker, Idaho Public Television; and Rakesh Mohan, Ned Parrish and A.J. Burns, Office of Performance Evaluations. Legislative Services Office staff in attendance included Jeff Youtz, Sheila Ison, Rande Trueax, Cathy Holland-Smith, Mike Nugent, Ray Ineck, Glenn Harris, Paige Parker, Eric Milstead, Robyn Davis, Ray Houston, Matt Freeman, Amy Castro, Dick Burns and Julie Swanson.

Minutes of the May 4, 2006, Legislative Council meeting were approved unanimously on a motion by Representative Jaquet, seconded by Representative Collins.

FY 2007 STRATEGIC PLAN

LSO Director Jeff Youtz reviewed the Legislature's FY 2007 Strategic Plan, noting that the plan details the work of the Legislative Services Office, serving as LSO's "plan of action" to meet the goals of the Legislature through specific objectives and strategies. He told the Council he had updated the plan with input from each division of the office. In addition to updating the plan, Mr. Youtz said he had added one new objective within Goal 6 (strengthen the institutional identity of the Legislature). The new Goal 6, Objective 2:

Strengthen the Legislature through an ongoing commitment to a comprehensive orientation and education program for new legislators, as well as periodic educational and development forums for all legislators.

Representative Field made a motion to approve the FY 2007 Strategic Plan as presented, and Senator Lodge seconded the motion. The Legislative Council voted unanimously to approve the Strategic Plan as presented.

BUDGET UPDATE

Manager Cathy Holland-Smith, LSO Budget and Policy Analysis Division, introduced new Budget Analyst Julie Swanson and briefly reviewed changes in the agency assignments of her staff. She reported on the status of fiscal year 2007 budget and revenue projections and previewed the budget scenario for FY 2008. The General Fund budget for FY 2007 is on track to produce an estimated ending balance of \$ 227.2 million, resulting in part from a 9.5 percent estimated increase in revenue, the appropriation of an additional \$250.6 million to public schools to replace the maintenance and operation levy, the transfer of \$100 million to the Public Schools Stabilization Fund — all subsequent to the Legislature's passage of HB 1 during the August 2006 Extraordinary Session.

Senator Stennett asked why the forecast for revenue from the cigarette tax was so much lower for FY 2007, and Mrs. Holland-Smith explained that the difference was a result of the Legislature's passage of HB 388 (2005), which required that moneys from the tax go to the Permanent Building Fund for the repair, remodel and restoration of the State Capitol Building and state facilities pertaining to the Capitol restoration. Once the director of the Department of Administration certifies that the Capitol restoration is adequately funded, the cigarette tax revenue will be distributed to the Economic Recovery Reserve Fund.

Mrs. Holland-Smith said FY 2008 agency appropriation requests include new substance abuse programs for the Department of Correction, funds for public schools to make up for previous maintenance and operations distributions that were not applied correctly, and for the Board of Education to cover changes in Idaho Standards Achievement Test (ISAT) contracts. In response to a question from Senator Werk about whether the additional funds for public schools is ongoing or one-time, Mrs. Holland-Smith said it is a one-time fix. She noted that the Legislature would need to discuss which funding is ongoing and which would be phased out, that a policy decision needs to be made.

Mrs. Holland-Smith described the improved agency request process being used this year, which was developed in conjunction with the Division of Financial Management. Council members discussed the FY 2008 General Fund budget picture, comparing the difference between estimated revenues and agency requests depending on whether the Legislature considers a 3 percent increase over the base revenue estimate or the total, including one-time revenue. Director Youtz noted that the single most important decision facing the Legislature is deciding what proportion of revenues is expected to be ongoing and what proportion is one-time only.

Senator Davis said that real estate and housing prices have been fluctuating so widely that projecting the cost of materials has become more and more difficult. Senator Werk noted that, looking at the numbers, it would seem the Legislature is "swimming in cash," but that it will be challenging for the Legislature to set a budget based on ongoing, not one-time moneys. He went on to say he was concerned about the workload of the Budget and Policy Analysis staff. Director Youtz acknowledged that the staff is at the tipping point of needing to be expanded, but said doing so had been postponed in light of the temporary relocation to the cramped Capitol Annex. He said that it wouldn't be long, however, before the Council received LSO appropriation request that included additional positions.

CAPITOL RESTORATION

Director Pam Ahrens, Department of Administration, provided Council members with an overview of the status of the Capitol restoration project, noting that the project has an extremely aggressive timeline so work can be completed as quickly as possible and the Legislature can reoccupy chambers in time for the 2010 legislative session. She said that following the approval of the State Building Authority, bonds had been issued and design and construction contracts had been awarded. The search for a construction manager is underway, and she expects a contract to be issued shortly.

Director Ahrens, in response to a request from Representative Jaquet, described the teams that have been contracted with to do the restoration work. Lemley/3DI is responsible for overseeing the entire project, CSHQA is the overall architect for the restoration, Hummel Architects and McAlvain Construction are the design/build team for the Capitol's new underground wings, and GUHO Corp./Insight Architects have been selected as the design/build team for the Capitol Annex project. Senator Werk asked who controls the overall expenses. Director Ahrens said the Capitol Commission, the State Building Authority and the Department of Administration all have oversight responsibility, and that architect Jan Frew, Deputy Administrator of the Division of Public Works, is monitoring the project closely and double checking costs. She emphasized that the Capitol restoration is a thoroughly transparent project and that she and her staff are always available to update the Legislature and answer any questions or address any concerns legislators might have, and that sophisticated reporting will be available to all throughout the project.

LSO Budget Analyst Eric Milstead presented information about the costs of renovating the former Ada County Courthouse (Capitol Annex) to provide swing space for the Legislature and legislature staff to occupy while construction work on the Capitol Building is underway. He said that money for the first phase of the project to get the Capitol Annex ready for occupancy comes from an appropriation to the Division of Public Works. A supplemental request will be submitted to the Legislature during the 2007 session to help ensure enough money is available to successfully complete the project should adverse circumstances arise to derail progress when the Legislature is not in session. Mr. Milstead noted that "there is no fall-back position." Staff must vacate the Capitol beginning April 1, 2007, and the Legislature will convene its 2008 and 2009 sessions in the Capitol Annex.

Senator Werk asked, "Who ensures where things go?" Mr. Milstead said the Idaho State Historical Society, working under the direction of the Capitol Commission, will decide what's moved, stored or surplused. Staff of the Public Archives and Research Library is working with legislative staff to ensure sound records management. In response to a question from Representative Jaquet, Director Ahrens said that state-owned equipment and furniture is surplused under procedures set in law by the Board of Examiners. Pro Tem Geddes added that the Sergeant at Arms is responsible for inventory in the Senate.

Legislative Relocation Specialist Robyn Davis described the status of work on the Capitol Annex and the work schedule, noting that all work is to be completed no later than September 2007. She said the furniture inventory had begun and will be completed this winter. The Historical Society is providing record management training to identify, file and archive all historical and active documents. All year-round staff is scheduled to be relocated in April 2007. Ms. Davis offered a tour of the Capitol Annex to Council members immediately following adjournment of the meeting and said future tours are available by appointment to those interested by contacting her at 334-4855.

2007 LEGISLATIVE SESSION PLANS

Copies of a prototype of a newly formatted Legislative Directory, with color photos of legislators, were distributed to Council members for review and comment. Chief Clerk Pamm Juker suggested moving administrative staff to the front of the book next to the leadership listings for the respective houses. Director Youtz assured members that the prototype directory would be distributed to legislative staff for feedback and suggestions, and asked that any legislator or staff person contact Sheila Ison (334-4852) with comments regarding the new format.

Senator Geddes said that some states have corporate sponsors to pay the printing expenses for legislative directories, making it possible to distribute copies free of charge to the public. He asked if Idaho can or should pursue a similar course. Director Youtz said the directory is a money maker for LSO and subsidizes the cost of producing other publications. Representative Jaquet said that finding an appropriate sponsor may be a problem, that it was essential that any such sponsor have no conflicts of interest, such as state contracts or bills before the Legislature. Senator Davis said that if the money made is a plus, the directory production should be covered as usual with LSO funds, and that a decision on sponsorship should be deferred to Legislative Council for a later time when more information is available. Representative Smith said her concerns were similar to those of Representative Jaquet, that she would want to know more about the financial impact and where the money goes before a decision about sponsorship is considered. There was general consensus among Council members that consideration of printing sponsorship for the Legislative Directory should be revisited at a later date.

Representative Field moved that the prototype format with color photos be approved; Representative Jaquet seconded the motion. Senator Davis wondered if photos of the other statewide elected officials could be included and said he thought that other staff and interested parties may have other suggestions, that if the motion included those considerations, he could support it. The Council approved the motion unanimously.

Director Youtz reviewed the agenda for the 2006 New Legislator Orientation Program, describing the two phases of the program, a two-day Phase I to be held the week of the Organizational Session and Phase II, a new, first-day-of session "Law School for Legislators." Representative Smith said returning legislators may also want to attend and asked if space and materials would be sufficient to accommodate additional attendees. Mr. Youtz said that once legislators were surveyed to see who wants to attend, the LSO staff would make sure that session(s) were held in a large enough room with enough materials. Senator Lodge asked if recordings of the orientation could be made, and Mr. Youtz said Glenn Harris and his technology staff were prepared to digitally record each session and burn CDs for anyone interested.

Representative Denney said that because of all the new committee chairmen anticipated, specific training for committee chairs was needed early in the session. He thought Legislative Council should put such training in place and invite both sitting and new chairs to attend. He moved that LSO develop such training, and Speaker Newcomb seconded the motion. The Council voted unanimously in favor of that motion, then, on a motion by Senator Lodge and a second by Senator Werk, voted to accept as presented the agenda for New Legislator Orientation Program. Speaker Newcomb said he thought the "Law School for Legislators" phase of the program was an excellent addition.

The Organization Session was discussed, with Pro Tem Geddes saying the Senate was on track for

making many of its decision on Wednesday night and Thursday, using Friday for attaché assignments and other miscellaneous decisions. Representative Jaquet, noting the increased number of minority representatives following the election, mentioned the possibility of assigning additional minority members to germane committees this year. Speaker Newcomb said the North Idaho Tour taking place the week following the election provided both caucuses an opportunity to discuss committee assignments. Pro Tem Geddes said that a letter describing the Organizational Session would be sent by the Secretary of the Senate to all senators, and Speaker Newcomb noted that the Chief Clerk would be sending a similar letter to members of the House.

A general discussion of “Rules Review Week” followed. Manager Mike Nugent, LSO Research and Legislation Division, said the legislative review originally took just a week or two, but in recent years, legislative review of agency rules was taking as long as four or five weeks. He asked the Council to consider ways to help streamline rules review. Pro Tem Geddes noted that posting the rules on the Internet has helped with rules review and said that chairs could possibly do a preliminary review. He added that with April 1 as a drop-dead date for relocating out of the Capitol, it will be important to expedite the session where feasible.

Speaker Newcomb commented that administrative rules are just as important as laws. Senator Davis, taking issue with any suggestion that Council might try to direct the work of Senate committees, said he likes the rules review process as it currently operates, that it is important when agencies are promulgating rules that they know they are subject to full review and hearings when the Legislature is in session. Representative Jaquet said she thought subcommittees could be chosen early and begin rules review the first week of session. Pamm Juker suggested using Friday hours more during the first weeks to help expedite the process. Rules Coordinator Dennis Stevenson said the rules would be posted on the Web no later than December 15 (a link to the rules will be added to the Legislature’s home page as soon as they are available). The Council’s consensus was to *encourage* committees to conduct expeditious rules reviews. Members then voted to adopt the target dates on the calendar (attached), on a motion by Senator Langhorst and a second by Representative Smith.

Following the lunch break, the Council recognized and thanked Manager Ray Ineck, Legislative Audits Division, for 35 years of outstanding public service. Mr. Ineck is retiring in December.

FY 2008 APPROPRIATION REQUEST

Cathy Holland-Smith presented the appropriation request for the Legislative Services Office, Legislative Technology, and the Capitol Renovation and Restoration for Council approval. On a motion by Senator Lodge and a second by Representative Collins, the Council unanimously approved accepting the three FY 2008 appropriation requests as submitted, and approved them for presentation to the Joint Finance-Appropriations Committee on behalf of the Legislative Council.

TECHNOLOGY UPDATE

Manager Glenn Harris, LSO Information Technology Division, updated the Council on progress toward development of the Government Electronic Management System (GEMS) — the Legislature’s new bill drafting / legislation tracking / Idaho Code / data management / multipurpose software system. GEMS is now scheduled to replace the current software in time for the 2009 legislative session. In response to a question from Senator Davis, Mr. Harris said it was unlikely that

the three-person staff programming the system think they will work themselves out of a job; the programmers will continue to be needed in the future to maintain and update the complicated system.

Mr. Harris reported that the Ad Hoc Advisory Committee on Technology had recommended to leadership that the current legislative laptop lease be extended for two additional years. After a brief review of other projects, he introduced for discussion a suggestion from Mr. Youtz that the membership of the Ad Hoc Advisory Committee on Technology consist of the same four members appointed to serve on the Information Technology Resource Management Council (ITRMC), plus two at-large co-chairs. The role of the Advisory Committee on Technology would be enhanced — to advise LSO and the Legislative Council on technology issues, and also to represent the Legislature's best interests with four of the six members serving on the statewide ITRMC. There was general agreement among Council members to adopt this approach.

REDISTRICTING

The Legislature's redistricting effort that will follow the 2010 U.S. Census is to be spearheaded by Legislative Librarian Kristin Ford and Budget Analyst Matt Freeman. Ms. Ford went over the redistricting timeline for 2010 and said that, although it might seem early to be discussing it, the Council should be aware that planning for the effort had begun, she had attended workshops at the NCSL Annual Meeting this past summer where vendors were already demonstrating their redistricting software, and that Idaho is on schedule with the Census Bureau timeline. Matt Freeman, who will be responsible for the budgeting side of the redistricting effort, told the Council that the first appropriation request for the 2010 redistricting project will be made during the 2008 session for the FY 2009 budget. Funding will be needed to provide staffing, hardware, software, training, public outreach and general support to the Idaho Commission on Redistricting.

VIDEO STREAMING / CHAMBER CAMERAS

The Legislature appropriated funds to the Legislative Services Office in 2006 for the purchase of automated cameras to capture floor action for a pilot project to be conducted during the 2007 session. If the cameras work well and the pilot project is successful, the cameras will be moved to the Capitol Annex to provide the public and staff access to the Legislature in the absence of viewing galleries and intercom systems for the two sessions the Legislature is expected to convene outside the Capitol.

The Legislative Services Office has been working with General Manager Peter Morrill, Idaho Public Television, to acquire the state-of-the-art cameras. Mr. Morrill updated the Council on plans to test the cameras during the Organizational Session; this will simply be equipment testing and no transmissions will be made. If all goes well, the cameras will be fully operational during the 2007 session, with signals being streamed via the Internet and transmitted through IPTV's digital network. Mr. Morrill said that plans for the test were on target and that positions for the cameras had been selected after extensive consultation with legislative leadership, the Legislative Services Office, the Department of Administration and the Capitol restoration architect. He and IPTV Production Manager Jeff Tucker showed one of the cameras to Council members, explaining how unobtrusive and quiet the cameras would be.

Senator Davis said the plan described by Mr. Morrill was inconsistent with his understanding of what the Legislative Council had discussed previously. He voiced his concern regarding the cameras and asked, “Who will be the director?” Mr. Morrill said that while there will be a person behind the control panel for each chamber, there will be no “director” per se — the control panel person will simply help operate the system; the cameras will simply follow the action on the floor. When there is no action, the cameras will provide a broad shot, with focus on no one, similar to what’s been done for several years with IPTV’s video streaming on the Internet.

Senator Davis predicted the need for policy and procedures and said he had opposed the whole idea of cameras in the chambers from the beginning. “It is the wrong thing to do.” Representative Jaquet said that the plan for cameras described by Mr. Morrill had been discussed previously and that she understood the use of the cameras during the 2007 session to be a dress rehearsal for when the Legislature convenes at the Capitol Annex with no public galleries. The cameras will definitely be needed then and will add to the transparency of what citizen legislators do, keep people informed and be very beneficial to outlying rural areas of the state.

Mr. Morrill said the cameras do not have red lights indicating when they were operating. He assured the Council that he would work closely with leaders of each chamber, that when issues of concern were encountered he was committed to finding win-win solutions. He went on to say that he, Jeff Tucker and Ricardo Ochoa, who would also be working on the project, had all worked at the Capitol for many years covering the Legislature, had great respect and fondness for the process and a keen sense of responsibility about their work.

Senator Davis said, in his opinion, it would be wrong to allow IPTV to own the cameras. Mr. Youtz responded that the Legislature owns the cameras, will make all decisions about the appropriate use of the cameras, and will continue to monitor camera usage. Senator Davis then asked, “So the Legislature will own the cameras?” Mr. Youtz explained that the Legislature had appropriated money to Legislative Services for them and that IPTV had purchased the cameras, then billed Legislative Services. Senator Davis said, “I want to hear Peter say that the Idaho Legislature owns the cameras.” Mr. Morrill said that all equipment purchased for the project had been identified with state property tags and added to state inventory lists, that if the Legislature wanted to identify the cameras in some other way as being owned by the Legislature, IPTV would be glad to retag the equipment.

Senator Davis said, “I don’t want Public Television to later say the cameras are ours and do what they want with them. We need ground rules that are not set by IPTV.” Mr. Morrill responded, “That is my understanding completely.” Speaker Newcomb said the policies should be defined by Legislative Council and concluded, “There were numerous constituent complaints when IPTV coverage of the Legislature was reduced — public coverage is a good thing.”

Mr. Morrill explained that the program “Idaho Reports,” which reported on the Legislature each weeknight during legislative sessions, had to be cut back to one night only when federal funds used to produce the program were cut in 1996. Because state funds can only be used for administration and maintenance of IPTV’s statewide system, all money spent on “content” has to come from private donations and grants. Mr. Morrill said it would cost approximately \$150,000 per year to return “Idaho Reports” to a nightly broadcast — funds that to date have not been made available to IPTV. In response to a question from Representative Jaquet, Mr. Morrill explained that IPTV will be

feeding the signal from the cameras in the legislative chambers via its statewide digital system. There will be an output box next to the control panel, and any legitimate media will be able to jack into the box at no cost to pick up the feed — it is a resource for any bonafide media under Fair Use laws. Local stations around the state that have digital capability will be able to opt in or out of picking up the signal; those with only analog capability will not be able to use the signal. Some cable stations will pick the signal up and broadcast it to viewers; satellite dishes and Direct TV will not.

Representative Field asked if the broadcast would be accessible in rural areas, to which Mr. Morrill answered, “If you can get Channel 4 digital TV, yes.” In response to a question from Senator Lodge regarding equipment needs, Mr. Morrill said that via the Internet there will be three choices — audio only, dial-up modem or broadband capability. Via television, the signal will be available for those with digital televisions and receivers, and many cable systems around the state may pick it up. The signal can even be picked up through some cell phone systems.

Mr. Youtz suggested drafting a “Memorandum of Understanding” between the Legislature and IPTV to clearly define the authority, protocols and ownership regarding camera use in the chambers. On a motion by Senator Werk and a second by Representative Shepherd, the Council voted to request that Legislative Services draft a Memorandum of Understanding and bring it back to Legislative Council for approval. Senator Davis said he would like input into the drafting of the memo; Mr. Youtz said, “We would welcome input.” A subcommittee of Legislative Council members, including Senator Davis, Senator Stennett, Representatives Denney and Representative Jaquet, will provide input to Mr. Youtz in drafting the memorandum.

OFFICE OF PERFORMANCE EVALUATIONS

Director Rakesh Mohan, Office of Performance Evaluations, provided the Council with a brief overview of three projects being undertaken by OPE staff concerning public school funding and average daily attendance, virtual charter schools, and health care costs. Speaker Newcomb congratulated Mr. Mohan on an award OPE recently received from the National Conference of State Legislatures, the 2006 Excellence in Evaluation Award, given in recognition of “best advancing the field of legislative program evaluation” from 2002 through 2005.

Mr. Mohan, responding to a question from Representative Smith, said the Health Care Study will be completed in May or June, and the other two studies should be completed by the end of February. He then confirmed to Senator Werk that the virtual charter school study would include an examination of students’ educational gains and losses, standards, requirements, ethical contracting, and a comparison between nonprofit vs. state-operated schools.

Speaker Newcomb thanked the Council members. Noting that this would be the last Legislative Council meeting for himself and Representative Field, both spoke for a few minutes in farewell. Representative Field is retiring after serving 22 years in the House, and Speaker Newcomb is retiring after 20 years of service, the last eight as Speaker.

The Council meeting adjourned at 3:00 p.m.